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# Message Text

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ACTION SS-25

INFO OCT-01 ISO-00 SSO-00 NSCE-00 CIAE-00 DODE-00 INRE-00

ERDE-00 /026 W
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FM AMEMBASSY MOSCOW
TO SECSTATE WASHDC IMMEDIATE 7192

S E C R E T MOSCOW 17051

EXDIS

E.O. 11652: XGDS-3
TAGS: PARM, US,UR
SUBJECT: TTBT/PNE NEGOTIATIONS: COMMENTS ON DRAFT PROTOCOL LEGAL ARTICLES ROUND V - TTBT/PNE DELEGATION MESSAGE NO. 15

REF: MOSCOW 17049

1. MEETING WAS HELD ON DRAFT PROTOCOL LEGAL ARTICLES NOVEMBER 26. SOVIETS PROVIDED REVISED TEXT (SEPTEL) WHICH IS SERIOUSLY DEFICIENT, AND SIGNIFICANT REGRESSION FROM MEASURE OF AGREEMENT EARLIER ACHIEVED.

2. PARA ONE OF FIRST SOVIET UNNUMBERED ARTICLE LEAVES OUT "AND RESPONSIBILITY FOR" WHICH CONTAINED U.S. ARTICLE X PARA ONE. IT WILL BE RECALLED THAT SOVIETS (TIMERBAEV) DID AGREE WITH THIS PROVISION (MOSCOW 15696, PARA ONE, OCTOBER 31) AT END ROUND IV. REASONS FOR SHIFT ARE AS FOLLOWS:

A) DELETED PHRASE HAS NEGATIVE POLITICAL CONNOTATION WHICH SHOULD BE AVOIDED;

B) QUESTION OF RESPONSIBILITY RUNNING TO PARTY CARRYING OUT EXPLOSION IS CLEAR WITHOUT SPECIFICATION;

C) THERE IS NO QUESTION IN INTERNATIONAL LAW BUT
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THAT RESPONSIBILITY LIES WITH PARTY CARRYING OUT EX-

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PLOSION.

IT WAS SUGGESTED THAT WITHOUT PROVISION A THIRD PARTY COULD SUE U.S. BECAUSE OF OBSERVER INVOLVEMENT FOR ALLEGED DAMAGE IN SITUATION WHERE U.S.S.R. CARRIED OUT PNE IF QUESTION OF RESPONSIBILITY NOT SPECIFIED IN TEXT. THIS WAS POOH-POOHED AS UNREALISTIC, NOT POSSIBLE, AND POINT THAT WOULD NOT BE SUSTAINED UNDER INTERNATIONAL LAW.

3. PARA TWO OF FIRST SOVIET UNNUMBERED ARTICLE LEAVES OUT HALF OF U.S. ARTICLE X PARA TWO RELATING TO LIABILITY OF PARTY CARRYING OUT EXPLOSION. REASONS WERE SUBSTANTIALLY SAME AS IN PARA TWO ABOVE.

4. THERE WAS NOT EXTENSIVE DISCUSSION OF SOVIET SECOND UNNUMBERED ARTICLE COVERING PROVILEGES AND IMMUNITIES. LAPTEV SAID SOVIET REVISION BASED ON UN CONVENTION ON SPECIAL MISSIONS AND VIENNA CONVENTION OF DIPLOMATIC RELATIONS, AS WELL AS TO ENSURE THAT OBSERVERS NOT HAVE GREATER STATUS THAN SOVIET AMBASSADOR IN WASHINGTON AND U.S. AMBASSADOR IN MOSCOW. IT WAS POINTED OUT THAT, FOR EXAMPLE, U.S. NOT PARTY TO SPECIAL MISSIONS CONVENTION, BUT LAPTEV SAID THAT NO PROBLEM SINCE U.S. LAWYERS FULLY FAMILIAR WITH PROVISIONS HAVING PARTICIPATED IN DEBATING THEM.

5. CONCERNING U.S. ARTICLE XI PARA 1, LAPTEV SAID IT WAS NOT INCLUDED BECAUSE TERM "INDUSTRIAL INFORMATION" IS NOT USED IN EXISTING AGREEMENTS ON INTELLECTUAL PROPERTY.

6. CONCERNING U.S. ARTICLE XI PARA 2 AND CORRESPONDING SOVIET TEXT. SOVIET DRAFT HAS DELETED "HOWEVER" LANGUAGE RESERVING RIGHTS TO MAKE CERTAIN KINDS OF PUBLIC STATE-MENTS. LAPTEV AND TIMERBAEV SAID THIS BECAUSE OF REFERENCE TO COMPLIANCE, WITH POSSIBLE IMPLICATION THAT STATEMENTS MIGHT BE MADE ABOUT NON-COMPLIANCE.

7. CONCERNING LAST SENTENCE IN SOVIET DRAFT. TIMERBAEV SAID THIS IS BEZUMOV'S SENTENCE AND WOULD HAVE TO BE DIS-CUSSED WITH HIM. BUCHHEIM ASKED THAT TIMERBAEV DISCUSS



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WITH BEZUMOV TO FIND OUT WHAT SENTENCE MEANS BECAUSE IT IS TOTALLY UNACCEPTABLE. COULD, AS WRITTEN, OBVIATE ENTIRE SECTIONS OF AGREEMENT REACHED THUS FAR. TIMERBAEV SAID HE THOUGHT BEZUMOV HAD IN MIND INFORMATION THAT MIGHT BE COVERED BY PATENTS.

8. CONCERNING U.S. ARTICLE IX PARA 1, LAPTEV SAID IT IS NOT INCLUDED IN SOVIET DRAFT BECAUSE HEADS OF DELEGATIONS

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HAVE NOT YET DECIDED WHAT TO DO ABOUT EQUIPMENT. WHEN ASKED FOR HIS VIEWS APART FROM EQUIPMENT QUESTION, HE SAID HE COULD NOT SAY BECAUSE NOTHING WAS CLEAR ABOUT PERSONAL PROPERTY -- WHAT DOES THAT MEAN? WHEN IT WAS SUGGESTED THAT DESIGNATED PERSONNEL WOULD ARRIVE WEARING THEIR PANTS AND CARRYING OTHER SIMILAR PERSONAL EFFECTS, LAPTEV ASKED IF THEY WOULD ALSO BRING AUTOMOBILES. WHEN ASKED ABOUT PARA APART FROM PERSONAL PROPERTY QUESTION, LAPTEV ASKED WHAT IS MEANT BY "ENTRY PORT."

9. CONCERNING U.S. ARTICLE IX PARA 2, LAPTEV GENERALLY DENIED KNOWLEDGE OF SUCH MATTERS. KONASHKOV ASKED WHAT MEANT BY "OTHER ACCOMMODATIONS;" HE WAS TOLD IT MEANT SUCH THINGS AS HOURING, MEALS, EMERGENCY MEDICAL CARE, AND LAUNDRY.

10. CONCERNING U.S. ARTICLE IX PARA 3 AND CORRESPONDING SOVIET TEXT: SOVIET TEXT, FOR EXAMPLE, DOES NOT RECOGNIZE THAT EXPLOSION MAY TAKE PLACE IN THIRD COUNTRY. NOT DISCUSSED WITH LAPTEV AT THIS POINT.

1. IN ADDITION TO VARIOUS COMMENTS ON SPECIFIC ITEMS, REPORTED ABOVE, LAPTEV HAD ONE GENERAL-PURPOSE RESPONSE WITH RESPECT TO EVERY PORTION OF U.S. DRAFT HAVING NO COUNTERPART IN SOVIET DRAFT, I.E., THAT HE HAD NOT DISCOVERED U.S. LANGUAGE IN ANY EXISTING INTERNATIONAL AGREEMENT. IMPRESSION IS THAT HIS CHAIN IS NOT LONG ENOUGH TO ALLOW HIM TO CONTEMPLATE MOVING BEYOND LANGUAGE OF CURRENT RECORD THAT HE CONSIDERS EXPLICITLY BLESSED BY "THEM", AND THAT THERE IS LITTLE TO BE ACHIEVED BY DEALING DIRECTLY WITH LAPTEV.

12. AS NOTED IN SEPTEL CONTAINING SOVIET REVISED DRAFT

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LEGAL ARTICLES, WOULD APPRECIATE COMMENTS OF WASHINGTON LEGAL EXPERTS BY NOVEMBER 30 FOR DECEMBER 1 MEETING WITH SOVIETS. PLEASE INCLUDE ANY CITATIONS ON LIABILITY ISSUE. WE NOTE GENERAL DISCUSSION PP. 42-43 OF ROUND 1 PAPER, DATED SEPTEMBER 13, 1974.

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# Message Attributes

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**Channel Indicators:** n/a
**Current Classification:** UNCLASSIFIED
**Concepts:** LIMITED TEST BAN TREATY, AGREEMENT DRAFT, PEACEFUL NUCLEAR EXPLOSIONS, NEGOTIATIONS
**Control Number:** n/a
**Copy:** SINGLE
**Draft Date:** 27 NOV 1975
**Decaption Date:** 28 MAY 2004
**Decaption Note:** 25 YEAR REVIEW
**Disposition Action:** RELEASED
**Disposition Approved on Date:**
**Disposition Authority:** greeneet
**Disposition Case Number:** n/a
**Disposition Comment:** 25 YEAR REVIEW
**Disposition Date:** 28 MAY 2004
**Disposition Event:**
**Disposition History:** n/a
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**Enclosure:** n/a
**Executive Order:** X3
**Errors:** N/A
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**Page Count:** 3
**Previous Channel Indicators:** n/a
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**Reference:** 75 MOSCOW 17049
**Review Action:** RELEASED, APPROVED
**Review Authority:** greeneet
**Review Comment:** n/a
**Review Content Flags:**
**Review Date:** 08 APR 2003
**Review Event:**
**Review Exemptions:** n/a
**Review History:** RELEASED <08 APR 2003 by ShawDG>; APPROVED <27 OCT 2003 by greeneet>
**Review Markings:**

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**Review Media Identifier:**
**Review Referrals:** n/a
**Review Release Date:** n/a
**Review Release Event:** n/a
**Review Transfer Date:**
**Review Withdrawn Fields:** n/a
**Secure:** OPEN
**Status:** NATIVE
**Subject:** TTBT/PNE NEGOTIATIONS: COMMENTS ON DRAFT PROTOCOL LEGAL ARTICLES ROUND V - TTBT/PNE DELEGATION MESSAGE NO. 15
**TAGS:** PARM, US, UR
**To:** STATE
**Type:** TE
**Markings:** Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006